

Rhode Island Department of Health  
**NOTICE OF PUBLIC HEARING**

The Director of the Rhode Island Department of Health has under consideration the *Rules and Regulations Related to the Collection of Bodily Substances for Criminal Identification Purposes (R12-5-BODY)* promulgated pursuant to the authority conferred in Chapters 12-5 and 42-35 of the Rhode Island General Laws, as amended. These are new regulations filed on an "emergency" basis with the Rhode Island Secretary of State on November 18, 2004. The purpose of these regulations is to clarify the appropriate standards to be used in the collection and submission of bodily tissues and fluids seized from the body of a person that may yield evidence of the identity of the perpetrator of a crime when scientifically analyzed.

Notice is hereby given in accordance with the provisions of Chapter 42-35 of the Rhode Island General Laws, as amended, that the Director will hold a public hearing on the above mentioned matter, in the **AUDITORIUM** of the Cannon Building (on the lower level), Rhode Island Department of Health, 3 Capitol Hill, Providence, Rhode Island on **WEDNESDAY, JANUARY 12, 2005 at 10:00 A.M.** at which time and place all persons interested therein will be heard. The seating capacity of the Cannon Building room will be enforced and therefore the number of persons participating in the hearing may be limited at any given time by the hearing officer, in order to comply with safety and fire codes.

In the development of the rules and regulations, consideration was given to the following: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business, as defined in Chapter 42-35 of the Rhode Island General Laws, as amended, which may result from the regulations. No alternative approach or duplication or overlap was identified based upon available information. The health, safety, and welfare of the public precludes any economic impact that may be incurred as a result of these regulations.

For the sake of accuracy, it is requested that statements to be made relative to any aspect of the regulations, including alternative approaches, overlap, or significant economic impact, be submitted in writing at the time of the hearing or mailed prior to the hearing date to: Patricia A. Nolan, M.D., M.P.H., Director, Rhode Island Department of Health, #401 Cannon Building, 3 Capitol Hill, Providence, Rhode Island 02908-5097.

Copies of the regulations are available for public inspection in the Cannon Building, Room #404, Rhode Island Department of Health, 3 Capitol Hill, Providence, Rhode Island or on the Department's website: [www.health.ri.gov/hsr/regulations/index.php](http://www.health.ri.gov/hsr/regulations/index.php) by calling 401-222-1039, or by e-mailing: [LizS@doh.state.ri.us](mailto:LizS@doh.state.ri.us).

*The Cannon Building is accessible to the handicapped. Individuals requesting interpreter services for the hearing impaired must notify the Office of Health Services Regulation at 401-222-1600 (Hearing/speech impaired, dial 711) at least 72 hours prior to the hearing.*

Signed this 29th day of November 2004  
Patricia A. Nolan, M.D., M.P.H.  
Director of Health



**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**  
**D E P A R T M E N T O F H E A L T H**  
*Safe and Healthy Lives in Safe and Healthy Communities*

**STATEMENT OF NEED FOR EMERGENCY ACTION**

In accordance with the provisions of subsection (b) of section 42-35-3 and of paragraph (2) of subsection 42-35-4(b) of the Rhode Island General Laws, as amended, I have on this date filed with the Secretary of State new regulations entitled, ***Rules and Regulations Related to the Collection of Bodily Substances for Criminal Identification Purposes (R12-5-BODY)***, promulgated pursuant to the authority contained in section 12-5-2 of the Rhode Island General Laws, as amended.

**This regulation is to become effective immediately upon filing.**

Such effective date is necessary in view of a finding by the Director of Health that any substantial delay might imperil the public health, safety, and welfare. This finding is based upon the following factors:

Emergency filing is necessary at this time to clarify the appropriate standards to be used in the collection and submission of bodily tissues and fluids seized from the body of a person that may yield evidence of the identity of the perpetrator of a crime when scientifically analyzed. Immediate filing will protect the health, safety, and welfare of the public by ensuring that criminal perpetrators are expeditiously identified in a scientifically accurate manner, and without creating undue health risks for law enforcement officials.

These emergency rules and regulations are available for inspection at the Rhode Island Department of Health, Room #404, Cannon Building, Providence, Rhode Island or on the Rhode Island Secretary of State's website: **[www.rules.state.ri.us/rules/](http://www.rules.state.ri.us/rules/)**

This rule will remain in effect until amended or modified as provided by Chapter 42-35 of the Rhode Island General Laws, as amended. A public hearing as required pursuant to Chapter 42-35 of the Rhode Island General Laws, as amended, for the adoption of the rules and regulations will be held by the Department of Health.

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Patricia A. Nolan, M.D., M.P.H.  
Director of Health

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**Received:** Office of the Secretary of State

**RULES AND REGULATIONS**  
**RELATED TO THE COLLECTION OF BODILY**  
**SUBSTANCES FOR CRIMINAL IDENTIFICATION**  
**PURPOSES**

(R12-5-BODY)

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DEPARTMENT OF HEALTH

**NOVEMBER 2004 (E)**

## ***INTRODUCTION***

These *Rules and Regulations Related to the Collection of Bodily Substances For Criminal Identification Purposes (R12-5-BODY)* are promulgated pursuant to the authority conferred under section 12-5-2 of the Rhode Island General Laws, as amended, and are established for the purpose of adopting prevailing standards for the collection and submission of blood, saliva, hair, bodily tissues, bodily fluids, or dental impressions from the body of a person that may yield evidence of the identity of the perpetrator of a crime when subjected to scientific or other forensic analysis submitted under the requirements of section 12-5-2 of the Rhode Island General Laws, as amended.

Pursuant to the provisions of section 42-35-3(c) of the General Laws of Rhode Island, as amended, the following were given consideration in arriving at the regulations: (1) alternative approaches to the regulations; (2) duplication or overlap with other state regulations, by referencing all applicable laws; and (3) significant economic impact on small business, as defined in Chapter 42-35 of the General Laws, as amended, which could result from the regulations. No impact upon small business was identified. Neither an alternative approach nor any overlap or duplication were identified. The protection of the health, safety and welfare of the public necessitates the adoption of these regulations despite the economic impact which may be incurred as a result.

## ***TABLE OF CONTENTS***

	<i>Page</i>
1.0 Definitions	1
2.0 General Requirements	2
3.0 Procedures Related to the Collection and Packaging of Bodily Tissues and Substances	2
4.0 Severability	3
<b><i>References</i></b>	4

## Section 1.0     ***Definitions***

Wherever used in these regulations, the following terms shall be construed as follows:

- 1.1     The "***Act***" refers to Chapter 12-5 of the General Laws of Rhode Island, as amended, entitled, "Search Warrants."
- 1.2     "***Bodily fluids***" as used herein, means fluids that have human origin and commonly include blood, saliva, and urine.
- 1.3     "***Bodily tissues***", as used herein, means a group or collection of similar cells and their intercellular substance that act together in the performance of a particular function in a human body.
- 1.4     "***Buccal swab***", as used herein, means a sample of tissue cells taken from the inner lining of the cheek or mouth.
- 1.5     "***Dentist***" means an individual licensed under the provisions of Chapter 5-31.1 of the General Laws of Rhode Island, as amended, to practice dentistry in this state or an individual licensed to practice dentistry under the laws of another state or territory of the United States, or another country.
- 1.6     "***Laboratory***", as used herein, means the Rhode Island Department of Health Laboratory established pursuant to section 23-1-33 of the Rhode Island General Laws, as amended.
- 1.7     "***Qualified medical personnel***" means a licensed physician, a registered nurse, a phlebotomist, or other authorized practitioner acting within the scope of his/her practice.

## Section 2.0 *General Requirements*

- 2.1 ***Scope of Application:*** These regulations shall apply to the seizure of any of the following: samples of blood, saliva, hair, bodily tissues, bodily fluids, or dental impressions from the body of a person that may yield evidence of the identity of the perpetrator of a crime when subjected to scientific or other forensic analysis. When any of the foregoing samples are seized for scientific or forensic analysis, the seizure shall be conducted in accordance with the regulations stated herein.
- 2.2 ***Integrity of Specimen:*** Specimens of bodily tissues and substances obtained for analysis shall be collected in a manner to ensure the integrity of the specimen(s).
- 2.3 ***Exposure to Infectious Material:*** All specimens shall be collected in an appropriate manner so as to minimize the occupational exposure to blood or other potentially infectious materials, and to reduce the likelihood of exposure to disease.
- 2.4 ***Packaging and Labeling of Specimen:*** All specimens of bodily tissues and substances collected pursuant to the Act shall be properly collected, properly packaged, and properly preserved as required herein. All specimens shall include appropriate identifying information, such as the name or initials of the individual collecting the specimen, the case number, date(s) on which the specimens were collected or transferred, and a brief description of the sample.

## Section 3.0 *Procedures Related to the Collection and Packaging of Bodily Tissues and Substances*

### ***Blood***

- 3.1 ***Qualified Personnel:*** The blood specimen(s) taken for analysis shall be collected by qualified medical personnel.
- 3.2 ***Manner of Collection:*** The blood specimen(s) shall be collected in a sterile laboratory tube or such other container so as to avoid contamination, preferably with ethylenediaminetetraacetic acid (EDTA) as a preservative.

### ***Urine***

- 3.3 ***Manner of Collection:*** Urine shall be collected in a previously-sealed sterile container.

### ***Hair***

- 3.4 ***Representative Sample:*** A representative hair sample of sufficient quantity for testing shall be collected from the head, pubic, or other body area(s).
- 3.5 ***Head and Pubic Hair:*** It is desirable to collect approximately twenty (20) hairs from the pubic region, and a representative sample of approximately fifty (50) hairs from the head, if possible.
- 3.6 ***Manner of Collection:*** The hair samples from each body area shall be packaged separately into paper envelopes.

### ***Buccal (Oral) Swabs***

- 3.7 ***Manner of Collection:*** The buccal swab shall be collected using a sterile cotton swab or other appropriate, sterile collection device.
- 3.8 ***Preservation and Storage:*** The buccal swab shall be air-dried and wrapped in an unused paper container, such as an envelope with two sealed corners.

### ***Other Bodily Tissues: Fingernail scrapings***

#### ***Fingernail scrapings***

- 3.9 ***Manner of Collection:*** Fingernail scrapings shall be collected in an appropriate, unused collection device.

### ***Dental Impressions***

- 3.10 ***Manner of Collection:*** A dental impression shall be taken by a dentist and shall include an impression of each arch using accepted dental impression techniques, such as those outlined by the American Dental Association. The interocclusal relationship shall be established.

## **Section 4.0 *Severability***

- 4.1 If any section, subsection, sentence, clause, phrase or portion of the Act or these regulations is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct and independent provision and this holding shall not affect the validity of the remaining portions of the Act or these regulations.



## ***REFERENCES***

1. *Blood borne Pathogens*, Occupational Safety and Health Administration (OSHA), 29 *Code of Federal Regulations*, section 1910.1030, Revised July 1, 2003. Available online:  
**<http://www.gpoaccess.gov/cfr/retrieve.html>**
2. *Handbook of Forensic Sciences*, U.S. Department of Justice, Federal Bureau of Investigation, Laboratory Division, Revised 2003. Available online:  
**<http://www.fbi.gov/hq/lab/handbook/forensics.pdf>**